IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 1317 of 2006

DATED: 7.9.2006

Between:

K.Damodharam **petitioner**

And

APSRTC,
Rep by its Managing Director,
Azamabad, Hyderabad and another **Respondents**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 1317 OF 2006

ORAL ORDER :

The present writ petition is filed questioning the action of the respondents in denying the retirement benefits on the pretext that he was removed from service based on ex-parte enquiry.

The petitioner was appointed in the respondent corporation in the year 1975 as conductor and later on in the year 2000, he was promoted as Depot Clerk and posted to Kuppam Depot. The petitioner claims that he has submitted an application dated 7.9.2001 requesting the first respondent to accept the voluntary retirement on medical grounds and to settle his retirement benefits. That he was retired on medical grounds and paid an amount of Rs.95,000/- towards Provident Fund. The petitioner alleges that he is entitled to gratuity, SBT amount, leave encashment amount, arrears of salary and VRS benefits and the same were not paid to them. Questioning the action of the respondents in not paying the retirement benefits, the petitioner filed W.P. No. 18763 of 2004 and the same was disposed of by order dated 13.10.2004 directing the respondents to take appropriate steps for settlement of the amounts,

if any due to the petitioner. It is alleged that the Regional Manager,

vide letter dated 1.3.2005 sought for factual position from the Depot Manager and in turn he was informed that the petitioner was removed from service w.e.f. 22.9.2001 on the ground of production of false medical certificate. The case of the petitioner is that he has submitted

an application seeking retirement on medical grounds on 20.9.2001 and till date no action was taken and the removal order was not communicated to him. Hence, the present writ petition questioning the action of the respondents in not paying the retirement benefits to the petitioner.

A counter affidavit was filed in the matter by the respondents indicating the punishments undergone by the petitioner. It is also stated that the petitioner was irregular to his duties from 6.6.2000 and after following the due procedure and conducting an enquiry, he was removed from service w.e.f. 22.9.2001. The contention of the petitioner that he was retired on medical grounds was specifically denied and it is stated that the petitioner was removed from service for unauthorized absence much before the receipt of his application for voluntary retirement. The details of amounts paid to petitioner towards Provident Fund, SBT, SRBS, Gratuity and settlement of salary were furnished. It is stated that CCS amount was directly settled to the party and FPS/EPS amount was settled by the Regional Provident Fund Commissioner, Hyderabad. It is stated that the petitioner is not eligible for encashment and VRS benefits, since he was removed from service. The details of payments made to the petitioner are as follows;

S. No.	Description	Cheque/DD Number	Date	Amount in Rs
1	Provident fund	DD 522225	21.4.03	95,569.00
2	SBT	Ch. 263211	12.5.03	17,070.00
3	SRBS	Ch. 024091	12.2.04	19,736.00
4	Gratuity	Ch 065176	29.2.04	84,247.00
5	Settlement salary	Ch 065176	29.2.04	2,464.00

In view of the counter affidavit, it is clear that the petitioner has

received amounts towards provident fund, SBT, SRBS, Gratuity and settlement of salary from the respondent corporation and his FPS/EPS amounts were settled by the Regional Provident Fund Commissioner. It is the case of the respondent corporation that since the petitioner was removed from service, he is not entitled to encashment and VRS benefits. Thus, the contention of the petitioner that respondent has not paid the retirement benefits cannot be believed. Having received the amounts under above heads, the petitioner seeks a direction to the respondents to pay the retirement benefits. The relief sought for by the petitioner in the present writ petition was already granted to him by the respondents.

The above facts would clearly indicate that the petitioner has suppressed the material facts.

The writ petition is devoid of any merits and accordingly, the same is hereby dismissed. No costs.

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N.V.RAMANA,J

DATE: 7.9.2006
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